

REMARKS

I. Introduction

Upon entry of the present amendment, claims 1-8, 10, 13-18, 25-27 and 29-38 are pending in this application. Claims 1-4, 7, 13, 14, 16, 25-27, 31, 32 and 36 have been amended to clarify the features of the invention. Claim 28 has been canceled. No new matter has been added.

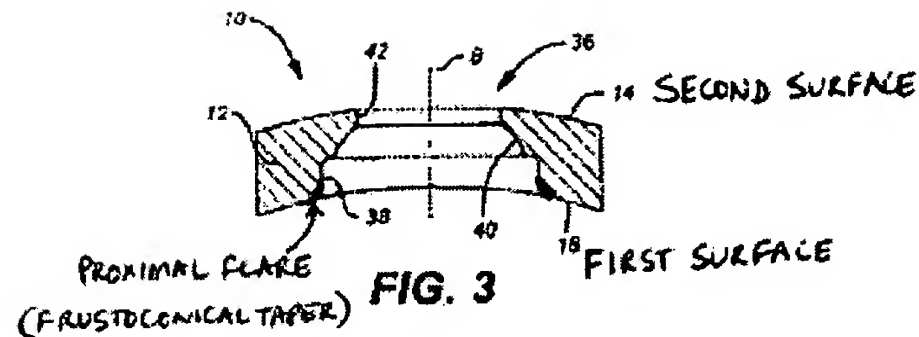
Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

II. Rejections based on 35 U.S.C. § 103

The Examiner has rejected claims 1-8, 10, 13-18 and 25-38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,120,546 to Dye et al. in view of U.S. Patent No. 6,152,927 to Farris et al. or U.S. Patent No. 6,228,121 to Khalili. Applicants respectfully traverse these rejections and request reconsideration and withdrawal thereof.

The claims of the application are directed to an insertion member, which can be a screw, peg, opening cover or other device, that includes a rounded nonfrustoconical contact surface that contacts the frustoconical taper section of an opening in a prosthesis. The insertion member fits the opening of the prosthesis in a substantially fluid-tight relationship and at a plurality of angles, and the head of the insertion member does not protrude beyond the surface of the prosthesis.

The Examiner has modified Fig. 3 of *Dye et al.* to demonstrate the combination of *Dye et al.* and *Farris et al.*, as shown below.



Applicants respectfully submit that the Examiner's suggestion to modify the screw-receiving holes 36 of *Dye et al.* to include a proximal flare as taught by *Farris et al.* would not teach all the claim limitations of the application.

The claims require that the frustoconical taper is extended and that it extends through a substantial portion of the opening. As shown in the Examiner's drawing, modifying *Dye et al.* to include a proximal flare does not result in a prosthesis with screw-receiving holes that have an extended frustoconical taper. As explained by *Farris et al.* and noted by the Examiner, the proximal flare serves to facilitate the insertion of screws. The proximal flare of *Farris et al.* does not include the advantages of the extended frustoconical taper of Applicants' invention.

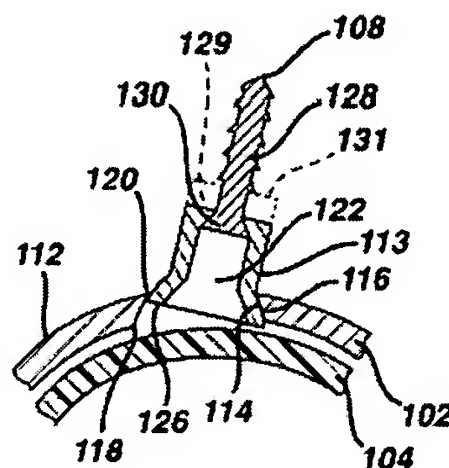
The claims also require that the rounded, nonfrustoconical contact surface of the head of an insertion member contacts the frustoconical taper section of the opening at a plurality of angular orientations and that the head of the insertion member does not protrude beyond the first surface. Because the combination of *Dye et al.* and *Farris et al.* does not teach an extended frustoconical taper, it would be impossible for the rounded, nonfrustoconical contact surface of the head of an insertion member to contact the proximal flare shown in the Examiner's drawing at a plurality of angular orientations and to not protrude beyond the first

surface. An insertion member inserted into the hole of the Examiner's drawing would protrude beyond the first surface if inserted at an angle.

The Examiner states that it would have been obvious to use the sleeve component and fixation screw of *Khalili* in the opening resulting from the combination of *Dye et al.* and *Farris et al.* to achieve the claimed invention. Although Applicants submit that the combination of *Dye et al.* and *Farris et al.* fails to teach many of the claim limitations relating to the opening in the prosthetic component, Applicants also assert that *Khalili* fails to teach the claim limitations relating to the insertion member.

Assuming that the sleeve component 110 and the fixation screw 108 of *Khalili* together are an insertion member, Applicants submit that the "insertion member" of *Khalili* is incapable of fitting in the opening of the prosthetic component at a plurality of angular orientations without the head of the "insertion member" protruding beyond the first surface. As shown in FIG. 6 of *Khalili* (reproduced below), when inserted at an angle, the head of the "insertion member" protrudes beyond the first surface.

FIG. 6



Khalili also does not teach that the head of its sleeve component, which is in contact with the prosthetic component, contacts a frustoconical taper section. The spherical head of the sleeve component in *Khalili* contacts a spherical surface that corresponds to the shape of the head of the sleeve component.

The combination of *Dye et al.*, *Farris et al.* and *Khalili* does not teach that the insertion member locks relative to the prosthesis. Therefore, the combination of *Dye et al.*, *Farris et al.* and *Khalili* also fails to teach that the insertion member fits in the opening in a substantially fluid tight relationship. Because they do not lock to the prosthetic, traditional bone screws, such as that taught by *Khalili*, form a gap between the head of the screw and the prosthetic as the patient heals and the prosthesis subsides into the bone. Thus, the combination would not form even a partial seal and would not form a substantially fluid tight relationship.

In summary, the combination of the references cited by the Examiner do not teach all the limitations of Applicants' claims. Applicants respectfully submit that the claims are not rendered obvious by the combination of *Dye et al.*, *Farris et al.* and *Khalili*.

CONCLUSION

In light of the amendments and the above remarks, Applicants are of the opinion that the Office Action has been completely responded to and that the application is now in condition for allowance. Such action is respectfully requested.

If the Examiner believes any informalities remain in the application that may be corrected by Examiner's Amendment, or there are any other issues that can be resolved by telephone interview, a telephone call to the undersigned attorney at (404) 815-6409 is respectfully solicited.

Respectfully submitted,



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